

## PLANNING BOARD STAFF REPORT

**DATE:** July 27, 2009

**TO:** HONORABLE PRESIDENT AND MEMBERS OF THE  
PLANNING BOARD

**FROM:** Andrew Thomas  
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**APPLICATIONS:** **Zoning Text Amendment – Applicant: City of Alameda:** An amendment to the Alameda Municipal Code to require an administrative use permit in non-residential districts for temporary or permanent barriers or fences within a required setback or along a property line that faces a public street or a public access easement.

### **BACKGROUND**

The Alameda Municipal Code (AMC) includes section 30- 5.14 Barriers and Fences which establishes regulations and restriction for the construction of fences or other types of barriers in Alameda. The provisions define different type of fence types and materials, establish limitations on heights to protect light, air, visibility, and aesthetic qualities, and the provisions include some prohibitions such as the use of barbed or razor wire. The provisions are relatively detailed and comprehensive for residentially zoned or developed properties, but much less detailed for commercially zoned or developed properties.

Over the course of the last year, a number of questions have been raised about the adequacy of the City of Alameda's municipal code requirements for fences in commercial areas. With the downturn in the economy, the City has seen some businesses close on Webster Street and on Park Street. Under the provisions of 30-5.14, the City has minimal control over the type of fences and barriers that can be placed on a commercial property. Although the lack of this type of control has not been much of a problem in good economic times when commercial properties are fully occupied or when commercial property owners are requesting entitlements for new construction or new uses and any proposed fences or barriers can be reviewed under those proposals, the downturn in the economy has revealed the City's inability to prevent or control property owners of vacant properties from erecting inappropriate fencing or barriers within the City's historic commercial districts or in the other business areas of the City.

Staff is proposing an amendment to Section 30-5.14 that will give some control to the City to regulate the location and design of fences in commercial areas, in cases where the property owner is not requesting any other entitlement or has no plans to redevelop the property. The proposed amendments are specifically designed to give the City the ability to regulate fencing on vacant or underutilized commercial properties to ensure that fencing of vacant properties does not unduly harm or reduce the commercial viability of neighboring businesses or the economic health and vitality of the City's important commercial areas. (The full text of Section 30-5.14 and draft amendment is included in attachment A.)

### **ANALYSIS**

In commercial or industrial districts, section 30-5.14 permits fences up to eight (8) feet in height (subsection c.4.) in required setback areas and up to the "allowable building height" if the fence is not located in a required setback area (see subsection d.4.) . On Park and Webster Street, the zoning does not require any front yard setback and the building height limit is between 40 and 60 feet. Luckily, barbed wire and razor wire is prohibited in all zones, but chain link and any other material is permitted in commercial and industrial districts by right. (See subsection 5.e.)

Therefore, under the current provisions, a temporary or permanent fence could be erected around a recently vacated property on Park or Webster Street of almost any size without any city review or discretion. If the fence is over six feet in size, the fence requires a building permit, but as long as the fence is structurally sound, the City could not deny the building permit. The City would have not authority or ability to require a lower fence or deny the fence based upon concerns about aesthetic or design quality or based upon concerns about the impact of the fence on the commercial vitality of nearby businesses or impact on property values of neighboring properties.

Staff is proposing a simple amendment to Section 30-5.14 that would add a requirement that fences in commercial and industrial zones require an administrative use permit. The administrative use permit process requires notice to the surrounding property owners and provides the ability for the Zoning Administrator (Planning Director) to consider whether the proposed fence would impact adjacent businesses or the commercial viability of the business area. The administrative use permit process provides the ability for the City to require modifications to the proposed fence material, size or location, or deny the proposal. Zoning Administrator decisions are reported to the Planning Board, which may then call the decision for review if necessary. Zoning Administrator decisions are also subject to appeal to the Planning Board.

**FINDINGS:**

Staff recommends approval for the text amendment based on the findings required by the Alameda Municipal Code, 30-22.5 that states that the Planning Board must weigh:

**The effect of the proposed amendments on the integrity of the General Plan.** The proposed zoning text amendment is necessary to ensure that temporary or permanent fences and barriers constructed within the commercial and retail districts do not inhibit achievement of General Plan goals for a walkable, pleasant, commercially vital, visually appealing commercial districts.

**The effect of the proposed amendments on the general welfare of the community.** The proposed zoning text amendment will ensure that inappropriate fences and barriers will not be built adjacent to the public right of way in commercial and industrial areas.

**The equitableness of the proposal.** The proposed zoning amendment is equitable in that it established a process to ensure that all fences and barriers in non-residential areas are not harmful or detrimental to the area or adjacent properties.

**ENVIRONMENTAL REVIEW**

The proposed amendments are categorically exempt from CEQA pursuant to CEQA Guidelines Section 15305 Minor Alterations in Land Use Limitations. The proposed amendments amend the review process for fences and barriers and do not increase the intensity or density of use that would be permitted on property in Alameda.

**PUBLIC NOTICE**

A notice for this hearing published in the Alameda Journal and posted at the subject property. Staff has not received any public comments on the proposed zoning text.

**RECOMMENDATION**

That the Planning Board approve the attached resolution recommending approval of the proposed amendments to the City Council.

RESPECTFULLY SUBMITTED BY:

REVIEWED BY:

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ANDREW THOMAS  
PLANNING SERVICES  
MANAGER

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DAVID BRANDT  
ASSISTANT CITY MANAGER

Attachment(s):

1. Draft Amendments
2. Draft Resolution